

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JAMES JEREMY BRISCOE, ) CASE NO. C09-1847-RSL-MAT  
Petitioner, ) (CR-07-218-RSL)  
v. )  
UNITED STATES OF AMERICA, ) ORDER GRANTING  
Respondent. ) RESPONDENT'S MOTION TO  
SUPPLEMENT THE RECORD  
)

Earlier the Court requested supplemental briefing from the parties on the question of equitable tolling because “[o]n the present record, petitioner has shown neither diligence in pursuing his rights nor that extraordinary circumstances stood in the way of filing his § 2255 motion.” (Dkt. 16, at 5.) Petitioner filed a supplemental brief (Dkt. 17), but respondent failed to respond as directed with additional documentation. Respondent now moves to supplement the record because its failure to respond was inadvertent. (Dkt. 18.)

The Court GRANTS respondent's motion to supplement the record. (Dkt. 18.) Petitioner has yet to state claims or to provide evidence that would suggest that equitable tolling is warranted. He therefore will not be prejudiced by further development of the record and by having an opportunity to reply to respondent's submission. Respondent shall supplement the

01 record by no later than **September 30, 2010**. Respondent shall file an optional reply brief by  
02 **October 15, 2010**. The Clerk is directed to renote the response to the § 2255 petition (Dkt. 8)  
03 to **October 15, 2010**.

04 DATED this 20th day of September, 2010.

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07 Mary Alice Theiler  
United States Magistrate Judge  
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